

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CONSUMERS DIGEST COMMUNICATIONS,)
LLC,)
)
 Plaintiff,)
)
)
v.) No. 08 C 3486
)
WESTPOINT HOME, INC., et al.,)
)
)
 Defendants.)

MEMORANDUM ORDER

On November 21, 2008 this Court issued its oral ruling granting the motion of Westpoint Home, Inc. ("Westpoint") to dismiss Counts IV through VIII of the Complaint brought against it by Consumers Digest Communications, LLC ("Consumers Digest"). That motion had left intact the trademark and service mark claims advanced by Consumers Digest, while challenging any federal copyright claim and some related state law claims.

Now Consumers Digest's counsel has filed an Amended Complaint ("AC") that advances, in addition to three Lanham-Act-based claims, a fourth count asserting copyright infringement. This Court's review of the AC reveals that only AC ¶22 contains any allegation that might be read as invoking the protection of the Copyright Act, but no copy of the allegedly infringing publication has been attached to the AC. Instead that document is conspicuous by its absence from Exs. A through G attached to the AC.

Accordingly this Court requests prompt delivery to its

chambers, as well as to Westpoint's counsel, of a copy of the assertedly offending publication. No substantive order is being entered here, for this Court will leave any questions as to the viability or nonviability of any aspects of the AC to be raised by Westpoint's counsel.



Milton I. Shadur
Senior United States District Judge

Date: December 9, 2008